

JIM GIBBONS
Governor

MICHAEL J. WILLDEN
Director



RICHARD WHITLEY, MS
Administrator

Tracey D. Green, MD,
State Health Officer

STATE OF NEVADA
DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH DIVISION
BUREAU OF HEALTH CARE QUALITY AND COMPLIANCE

NOTICE OF INTENT TO IMPOSE SANCTIONS

Certified Mail #: 7008 1140 0002 8725 8533

November 9, 2009

Administrator
Loyalton of Las Vegas
3025 E. Russell Road
Las Vegas, NV 89120

YOU ARE HEREBY NOTIFIED that the HEALTH DIVISION intends to impose sanctions effective eleven working days after your receipt of this notice.

Statutory or Regulatory Authority

The Health Division is imposing sanctions on your facility in accordance with Nevada Revised Statutes (NRS) 449.163 through 449.170 and Nevada Administrative Code (NAC) 449.9982 through 449.99939. The imposition of sanctions is based on the severity and the scope of the deficiency as defined by NAC 449.99861 and NAC 449.9986. The severity and scope scores assigned to the deficiencies are provided in Attachments A, B and C.

Monetary Penalties

NAC 449.99895 authorizes the Bureau to impose monetary penalties.

The Bureau imposed an initial penalty of \$400.00, assessed for the deficiency at TAG Y878 in the survey dated 5/13/09. NAC 449.99899(4) indicates for initial deficiencies with a severity level of three and a scope level of two or less, an initial monetary penalty of \$400 per deficiency must be imposed. No daily penalty was imposed at that time.

The Bureau is now imposing monetary penalties of \$800.00 per day, assessed for the alleged false compliance of the deficiency at TAG Y878, cited in the surveys dated 5/13/09, 6/30/09, 9/8/09 and 10/21/09. NAC 449.99902(3) indicates the Bureau may double the daily monetary penalty that was or could have been assessed if the facility alleges compliance and the Bureau finds on a survey that at the time compliance was alleged the deficiencies continued to exist.

NAC 449.99903 indicates there is a rebuttable presumption that deficiencies identified on a resurvey were present on each day between the date of the initial deficiency and the date of the resurveyed deficiency.

☒ Health Facilities/Lab Services
1550 E. College Parkway
Suite 158
Carson City, Nevada 89706
(775) 687-4475
Fax: (775) 687-6588

☐ Health Facilities/Lab Services
4220 S. Maryland Parkway
Suite 810, Building D
Las Vegas, NV 89119
(702) 486-6515
Fax: (702) 486-6520

☐ Radiological Health
4150 Technology Way
Suite 300
Carson City, Nevada 89706
(775) 687-7550
Fax: (775) 687-7552

☐ Radiological Health
2080 E. Flamingo
Suite 319
Las Vegas, Nevada 89119
(702) 486-5280
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Bureau of Licensure
and Certification
Carson City, Nevada

NAC 449.99906(1) indicates daily penalties and interest must be computed after compliance has been verified. On 9/8/09 and 10/21/09, resurveys were conducted at the facility and compliance was finally verified on 10/30/09. It was determined that the period of non-compliance continued from 6/16/09 through 10/30/09. Therefore the daily penalties were computed including everyday from 6/16/08 through 10/30/09, or 137 days.

Total of Monetary Penalties = \$109,600

NAC 449.99904 indicates the requirements for reduction of the penalty.

NAC 449.99908 indicates the time allowed for the payment of the penalty.

NAC 449.99911 indicates the possible consequences for failure to pay the penalty.

Facts Supporting the Sanction

The Bureau conducted a survey at Loyalton of Las Vegas on 5/13/09. The specific factual findings that serve as the basis of the underlying deficiencies are set forth in the Statement of Deficiencies (SOD) in Attachment A. The Bureau received a Plan of Correction (POC) on 6/12/09, alleging compliance on 6/16/09. The Bureau conducted a resurvey on 6/30/09 and found the facility had alleged false compliance. The specific factual findings that serve as the basis of the underlying deficiencies are set forth in the SOD in Attachment B. The facility submitted a POC for this survey on 7/29/09 that alleged compliance would be met on 8/30/09. The Bureau conducted another resurvey on 9/8/09 and 10/21/09 and found the facility had again alleged false compliance. The specific factual findings that serve as the basis of the underlying deficiencies are set forth in the SOD in Attachment C and Attachment D. The facility alleged compliance would be met on 10/30/09 and this was verified.

Notice of Right to Appeal

Nevada Revised Statutes 449.170(2) affords the facility the right to contest the action of the Health Division. If you wish to oppose this action, you must send a written appeal to Richard Whitley, MS, Health Division Administrator, 4150 Technology Way, Suite 300, Carson City, Nevada 89706. You can fax your written appeal to (775) 684-4211.

In order for you to receive a hearing, the Administrator must receive this written appeal by 5:00 pm on the 10th working day after you have received this notice. The local Bureau of Health Care Quality and Compliance office cannot accept your appeal. Your written appeal must include the following information: a) the action to be contested, b) the name of the division officer or employee who signed this notice, c) the reasons that the appellant believes the action is incorrect, and d) whether or not the appellant is seeking an informal internal resolution prior to the formal appeal process.

You are entitled to be represented by counsel at your own expense in these proceedings. If you retain an attorney, your counsel must notify the Administrator of his or her representation of you.

Effective Date of Sanction

If you submit a timely request for appeal, the effective date of the action will be stayed, pending the hearing on appeal. If you do not request a hearing within the next ten working days, you will waive your rights to a hearing and the action will be imposed as of the 11th

working day after you receive this notice. NAC 439.348 indicates that except as otherwise provided in NAC 449.99908 the effective date of the disciplinary action is stayed upon receipt of an appeal until the hearing officer renders a decision regarding the appeal. NAC 449.99908 indicates that initial monetary penalty assessment payments are due within 15 days after the notice of the penalty and must be paid irrespective of any administrative appeal.

Reduction of Monetary Penalties

If you waive your right to hearing, correct the deficiencies and pay the fines within 15 days of this notice, your penalty will be reduced by 25% pursuant to NAC 449.99904.

Payments

Payments for monetary penalties must be made to the Bureau of Health Care Quality and Compliance at 1550 E. College Parkway, Ste. 158, Carson City, NV 89706.

Other Notifications

The Bureau of Health Care Quality and Compliance must upload information about sanctions applied to medical facilities to the National Practitioners Databank within 30 days of providing the sanction notice to the facility.

If you have any questions about this notice or the contents therein, please call the supervisor indicated below at (775)687-4475.

Sincerely,



Patricia Chambers, RN
Health Facility Surveyor III

For Marla McDade Williams, MPA, Bureau Chief

Attachments: SOD/POC dated 5-13-09 – Attachment A
SOD/POC dated 6-3-09 – Attachment B
SOD/POC dated 9/8/09 – Attachment C
SOD/POC dated 10/21/09 – Attachment D